

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

BLUE SPIKE, LLC,
Plaintiff,

v.

TEXAS INSTRUMENTS, INC.,
Defendant.

Civil Action No.: 6:12-cv-00499-LED

JURY TRIAL DEMANDED

BLUE SPIKE, LLC,
PLAINTIFF,

v.

**DERMALOG IDENTIFICATION
SYSTEMS, GMBH, ET AL,**
DEFENDANT.

**Case No. 6:13-cv-00053-MHS
(Consolidated with 6:12-cv-499-LED
and closed)**

JURY TRIAL DEMANDED

**UNOPPOSED MOTION TO VACATE ENTRY OF DEFAULT
AND RETURN OF SERVICE**

DERMALOG Identification Systems GmbH (“DERMALOG”), through it’s attorney Eric H. Findlay, states the following in support of this Unopposed Motion to Vacate Entry of Default and Return of Service:

I.

Eric H. Findlay, of Findlay Craft, LLP, makes this special appearance on behalf of DERMALOG solely and exclusively for the purposes of filing this Unopposed Motion to Vacate Entry of Default and Return of Service. Neither this appearance nor this Motion shall be

construed as a waiver of any jurisdictional or venue arguments, and DERMALOG reserves the right to contest jurisdiction and venue, as well as any other defenses allowed under law.

II.

On or about March 4, 2013, Blue Spike, LLC (“Blue Spike”) filed a Return of Service Executed as to DERMALOG on February 13, 2013, indicating it was served by personal service and that an answer was due March 6, 2013 (*See* Dkt. No. 16 for now closed Case No. 6:13-cv-00053), (“Return of Service”). Service was not effectuated properly through the Hague Convention on Service Abroad; therefore, the Return of Service should be vacated.

III.

On or about June 26, 2013, a Clerk’s Entry of Default as to DERMALOG was entered (*See* Dkt. No. 850). Service was not effectuated properly through the Hague Convention on Service Abroad; therefore, the default should be vacated.

IV.

In light of the above, Blue Spike has agreed not to oppose this Motion to Vacate Entry of Default and Return of Service. Blue Spike further agrees that it will attempt to effectuate proper service upon DERMALOG, pursuant to the Hague Convention for Service Abroad.

V.

Counsel for Blue Spike has reviewed this Unopposed Motion to Vacate Entry of Default and Return of Service, and is unopposed to the relief requested herein.

WHEREFORE, DERMALOG Identification Systems GmbH respectfully requests that this Unopposed Motion to Set Aside Entry of Default and Return of Service be granted.

Dated: August 2, 2013

/s/ Eric H. Findlay

Eric H. Findlay
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**ATTORNEY FOR DERMALOG
IDENTIFICATION SYSTEMS, GMGH**
*Appearing solely for purpose of filing this
unopposed motion*

CERTIFICATE OF SERVICE

The undersigned certifies that on August 2, 2013, the foregoing document was filed electronically in compliance with Local Rule CV-5(a). This motion was served on all counsel by electronic filing.

/s/ Eric H. Findlay

Eric H. Findlay